

REMARKS

As of the filing of this Reply, claims 2-5, 8, 9, 17-21, and 30-34 were pending in the above-identified US Patent Application.

In the Office Action, the Examiner maintained a rejection of independent claim 30 and its dependent claims 2-5, 8, 9, 17-21, and 31-34 under 35 USC §103 based on the combination of U.S. Published Patent Application No. 2002/0151816 to Rich et al. (Rich), U.S. Patent No. 7,147,604 to Allen et al. (Allen) and U.S. Patent No. 4,869,263 to Segal et al. (Segal) alone or in further view of one of the following references: U.S. Patent No. 6,252,548 to Ishikawa, U.S. Patent No. 6,409,674 to Brockway et al. (Brockway), and U.S. Patent No. 5,662,712 to Pathak et al. (Pathak).

Applicants respectfully request favorable reconsideration in view of the following remarks.

In the present Office Action, Rich is described as disclosing a method that comprises

injecting the sensor package so as to deliver the package into a blood vessel (see entire document, especially paragraph 77 of Rich), wherein the blood vessel is

sufficiently small to prevent further movement of the sensor package and to anchor the sensor package therein (see entire document, especially figs. 15, 16 of Rich). The blood vessel is blocked, at least in part, with the sensor package, and the sensor package is operated while the vessel remains blocked by the sensor package to chronically monitor pressure in the vessel (see entire document, especially figs. 15, 16; paragraphs 77, 78 of Rich), wherein the sensor may be used to monitor pulmonary artery pressure (see entire document, especially paragraph 89 of Rich).

A previous rejection based on Allen as the primary reference was withdrawn in response to Applicants' arguments in a response filed November 17, 2008, in which Applicants argued that

Allen does not disclose or suggest how or why such a sensor would be delivered to block an artery, and Allen's Figures 18-20 clearly show that such a sensor and delivery method do not result in the artery 268 being blocked.

Citing Applicants' Reply of May 6, 2008.

Applicants respectfully believe that these same arguments are applicable to Rich (which shares three common inventors with the present application). First, Applicants claim the step of "blocking the second pulmonary artery with said sensor package," and not a "blood vessel is blocked, at least in part, with the sensor package." One may argue that Rich's sensor package 12 partially

blocks an artery 114 in FIGS. 15 and 16, but one cannot argue that Rich's sensor package 12 actually blocks the artery 114. Instead, Rich's FIGS. 15 and 16 clearly show that the sensor package 12 is of such small size relative to the artery 114 that blood is able to flow freely and unimpeded around the package 12. If FIGS. 15 and 16 are used as any indication, Rich's package 12 accounts for less than 10% (roughly about 6%) of the cross-sectional flow area of the artery 114 - hardly what medical personnel would describe as a "blocked artery." As such, there is also no need in Rich to rely on "other pulmonary arteries compensat[ing] for the blocked second pulmonary artery," as required by Applicants' claim 34.

Rich also does not disclose or suggest how or why the sensor package 12 (shown with a rectangular cross-section) could and would be used to intentionally block an artery. Instead, Rich's spring cage 112 and spring arms 116 evidence the opposite intent - a minimal effect on blood flow through the artery 114.

Applicants believe Allen, Segal and the remaining references also fail to disclose or suggest a method in which a sensor package intentionally blocks an artery for the purpose of sensing pressure within the blocked artery. While Allen was cited for teaching

monitoring pulmonary artery pressure, wherein a sensor package is injected into a site with the patient's vasculature so as to become lodged into a minor pulmonary artery or pulmonary capillary (see entire document, especially).

Office Action at page 4.

and Segal was cited for teaching

lodging a device in a second pulmonary artery, wherein the device is first injected into a first pulmonary artery 129, and the blood flow through the first pulmonary artery delivers the device into the second pulmonary artery 131 and the second pulmonary artery has a smaller diameter than the first . . .

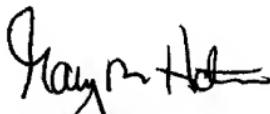
the "lodging" of Allen's "small, flat sensors . . . manipulated into a smaller shape and size by rolling, bending, or folding it into a cylindrical form" does not suggest blocking an artery any more than Rich, and the "device" lodged by Segal is the balloon 16 and not the sensor 21 (see FIG. 11 of Segal).

For the above reasons, Applicants respectfully request withdrawal of the rejections to the claims under 35 USC §103, and ask that their patent application be given favorable reconsideration.

Application No. 10/679,888
Docket No. A4-1765
Submission dated November 10, 2009
In Response to Office Action dated August 10, 2009

Should the Examiner have any questions with respect to any matter now of record, Applicants' representative may be reached at (219) 462-4999.

Respectfully submitted,



Gary M. Hartman
Reg. No. 33,898

November 10, 2009
Hartman & Hartman, P.C.
Valparaiso, Indiana 46383
TEL.: (219) 462-4999
FAX: (219) 464-1166